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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,223	02/23/2004	Thomas Maciag	536895013CT1	3032
23973 7590 04/12/2007 DRINKER BIDDLE & REATH ATTN: INTELLECTUAL PROPERTY GROUP ONE LOGAN SQUARE 18TH AND CHERRY STREETS PHILADELPHIA, PA 19103-6996			EXAMINER WOODWARD, CHERIE MICHELLE	
			ART UNIT 1647	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/12/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/786,223

Applicant(s)

MACIAG ET AL.

Examiner

Cherie M. Woodward

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 14-20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7, 8 and 11-13 is/are allowed.
- 6) ☒ Claim(s) 9 and 10 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Formal Matters

1. Applicant's Response and Amendments, filed 12 January 2007, are acknowledged and entered. Claims 1-20 are pending. Claims 1-5 and 14-20 are withdrawn as being drawn to non-elected inventions. Claims 6-13 are under examination.

2. It is noted that on page 13, second full paragraph, of Applicant's remarks, Applicant states that a substitute specification has been submitted with the response filed 12 January 2007. No substitute specification was received. A one page amendment to the specification was received on 12 January 2007, but not a substitute specification.

3. Applicant's arguments with respect to benefit of the priority date of Provisional Application No. 60/314,837, filed 24 August 2001, are moot as the art rejections have been withdrawn.

Specification

4. The objection to the use of the trademark SPRAGUE DAWLEY (p. 48, line 13), is withdrawn in light of Applicant's amendment.

5. The objection to the specification because of the following informalities:

- a. There are numerous appearances of IL-1, IL-1□, or IL-1 [additional spaces following IL-1 and the next word] where it appears there should be a Greek symbol following "IL-1". It is unclear if these symbols are the result of typographical errors, computer software conversion problems, or some reason; and
- b. The chemical tetrathiomolybdate (TTM) is misspelled in the specification at page 5, line 10,

is maintained for the reasons of record. Although Applicant's Remarks (p. 13, second full paragraph) stated that a substitute specification has been submitted, it was not in fact, received. No pages have been submitted showing the requested corrections. Appropriate correction is required.

Claim Rejections - 35 USC § 112, Second Paragraph

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. The rejection of claim 6 under 35 U.S.C. 112, second paragraph, as being indefinite because the claim recites administration of "an IL-1 α release inhibiting amount of a copper chelator..." is withdrawn.

8. The rejection of claim 9 under 35 U.S.C. 112, second paragraph, as lacking antecedent basis because the claim recites the limitation "said mammal" in line 3, is maintained for reasons of record and the reasons set forth here. Applicant's remarks indicate that the claims have been amended to recite "the mammal." However, the claims submitted on 12 January 2007, do not reflect this change. Claim 9 is an independent claim and does not refer to a mammal prior to the use of the term "said mammal."

Claim 10 is rejected as depending from a rejected claim.

Claim Objections – Necessitated by Amendment

9. Claim 6 is objected to because of the following informalities: the amendment to the claim recites "IL- α release" in line 4 of the claim. For purposes of advancing prosecution, the Examiner will read the claim as "IL-1 α release". However, appropriate correction is required.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. The rejection of claims 6-9 and 11-13 under 35 U.S.C. 102(e) as being anticipated by Cooper et al., US Patent 6,951,890 (4 October 2005, benefit to 12 March 2002), is withdrawn.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The rejection of claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper et al., US Patent 6,951,890 (4 October 2005, benefit to 12 March 2002) in view of Medford et al., US Patent 5,877,203 (2 March 1999), is withdrawn.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ternansky et al., US Patent 7,189,865 (13 March 2007, benefit to 23 July 2002), teaches methods of using thiomolybdate analogues, including tetrathiomolybdate to treat or prevent aberrant vascularization in a patient in need thereof.

Claims 7-8 and 11-13 are allowable.

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cherie M. Woodward whose telephone number is (571) 272-3329. The examiner can normally be reached on Monday - Thursday 9:00am-7:30pm (EST).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback can be reached on. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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MARIANNE P. ALLEN
PRIMARY EXAMINER

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